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September 9, 2004

Chairman Spitzer
Commissioner Hatch-Miller
Commissioner Gleason
Commissioner Mayes
Parties of Record

Re: Response to the August 31, 2004 letter from Saguaro Utility Group L.P.;
In the Matter of the Reorganization of UniSource Energy Corporation;
Docket No. E-04230-03-0933

Dear Colleagues and Parties:

The August 31, 2004 letter from the Saguaro Utility Group L.P. ("Saguaro L.P.") not only fails to alleviate my concerns about its proposed acquisition of UniSource Energy Corporation ("UniSource"), but raises several issues to which I must respond.

First, I feel compelled to clarify my statement that the applicants have interpreted as indicative of my desire for them to consider releasing only the Ernst & Young report ("E&Y Report") and not the confidential analyses performed by each of the limited partners of Saguaro L.P. regarding their potential rates of return ("IRR Projections") on the proposed acquisition of UniSource. My statement was:

And I heard Mr. Stuart's reasoning for each individual analysis based on they didn't want their competitors to know that information. But if they did one study together, that issue is no longer applicable. *So that seems to me would be, there would be less ability to argue that it shouldn't be seen, you know, as long as it's under seal and we do what we always do.* (Hearing Tr., p. 692, ll. 16-23)(emphasis added).

When my entire statement is considered, instead of just the portion that was quoted in the August 31, 2004 letter from Saguaro L.P., it is abundantly clear that I was merely pointing out that Saguaro L.P.'s argument for its refusal to provide the IRR Projections to the Commission based on the fact that the individual analyses were not shared among the limited partners is not applicable to the E&Y Report. The whole point of my comment is that one argument for nondisclosure of the IRR Projections could not be made for nondisclosure of the E&Y Report.

Second, while UniSource had reason to believe that it was only looking into providing the E&Y Report based on my conversations with Mr. Heyman during the hearing, the limited partners, specifically Mr. Behrens, were directly asked to produce the IRR Projections. Commissioner Mayes clearly expressed her desire, and mine, to examine those reports. At pages 692-95 of the Hearing Transcript, Mr. Behrens described his partners' investment philosophy, stating that they look at an investment such as this in terms of how much their purchase will appreciate in value. He also said that he did not recall if any one analysis had been conducted on what the collective rate of return would be for the limited partners. When asked by Commissioner Mayes if he had any projections on how much of a return he anticipated on this transaction, Mr. Behrens replied:

The conversations I would typically have with my partners are we would expect to make, if things go a certain way, a certain amount of money on our investment. If things go a different way, another amount. (Hearing Tr., p. 694, ll. 20-24).

Commissioner Mayes subsequently asked:

And I'm interested in the specifics and I think Commissioner Mundell is as well. So would you be willing to provide under seal those numbers that you offered to your partners? The various scenarios and the specific numbers attached to them? (Hearing Tr., p. 695, ll. 7-12)

Mr. Behrens responded to Commissioner Mayes' request by stating that he would need to seek the advice of his counsel. This exchange between Commissioner Mayes and Mr. Behrens took place after my statement that has been misinterpreted to indicate that I no longer sought the release of the IRR Projections. Based on Commissioner Mayes' unambiguous request in the transcript, I find the limited partners' claim that they believed the IRR Projections were no longer sought to be disingenuous.

Finally, the limited partners' refusal to disclose the IRR Projections based on their assertion that the information is highly proprietary and confidential as well as being speculative and cumulative is unacceptable. The customers of Tucson Electric Power ("TEP") may have a quasi-equitable interest in the company due to the fact that they have paid higher rates in order to pull the company back from the brink of bankruptcy. The Commission allowed TEP to base its rates on more equity that actually existed in the company in order to restore the financial health of TEP. During the hearing Staff witness John Antonuk testified:

The increase in value that that approach by this Commission produced seems to me from the Commission's perspective was not designed to give shareholders something to capture on the sale of the company. It was designed to give the company enough financial strength to sort of keep

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customers from bearing the risk of the company sliding into receivership. But having done that, now the recapture of all that portion of value is going to the sellers. (Hearing Tr., p. 1152, ll. 10-19).

In light of the above circumstances, I believe that it is essential for the limited partners to disclose to this Commission – under seal if necessary – what they have speculated their return will be. As to the IRR Projections being cumulative to Staff's pre-filed testimony, Mr. Stuart's assertion that the limited partners' return analysis discussed in Mr. Reiker's testimony "is a reasonable approach" is insufficient. I know from experience that the concept of what is "reasonable" can vary between parties to such a degree as to render that term meaningless in this context.

I appreciate the enormous efforts that the limited partners and UniSource have expended to answer the questions of the Commissioners and the parties; however, it appears that the limited partners' idea of a complete answer is radically different from mine. If the documents that I have repeatedly requested are not produced, I am concerned that their absence will make it exceedingly difficult for me to reach an informed decision in this matter.

Sincerely,

A handwritten signature in cursive script, reading "William A. Mundell".

William A. Mundell, Commissioner
Arizona Corporation Commission

cc: Brian McNeil
Ernest Johnson
Chris Kempley
Lyn Farmer